

RESOLUTION 8 88
ORDINANCE NO. 2 -88

AN ORDINANCE PROVIDING FOR INSTALLATION OF LIVESTOCK GUARDS ACROSS COUNTY ROADS, SPECIFICATIONS THEREFORE, AND PENALTIES, AND REPEALING A PREVIOUS SIMILAR ORDINANCE.

WHEREAS Madison County has had a livestock guard policy since approximately 1947 which has allowed property owners a license to install livestock guards under certain conditions, and

WHEREAS that policy is still applicable and specifications for cattleguards and general conditions need amendment with the passage of time,

NOW, THEREFORE, BE IT ORDAINED by Madison County through its Board of County Commissioners as follows:

1. That no livestock guard shall be installed on COUNTY property or rights of way without the permission of the Board of County Commissioners.

2. That such permission shall be effective until termination.

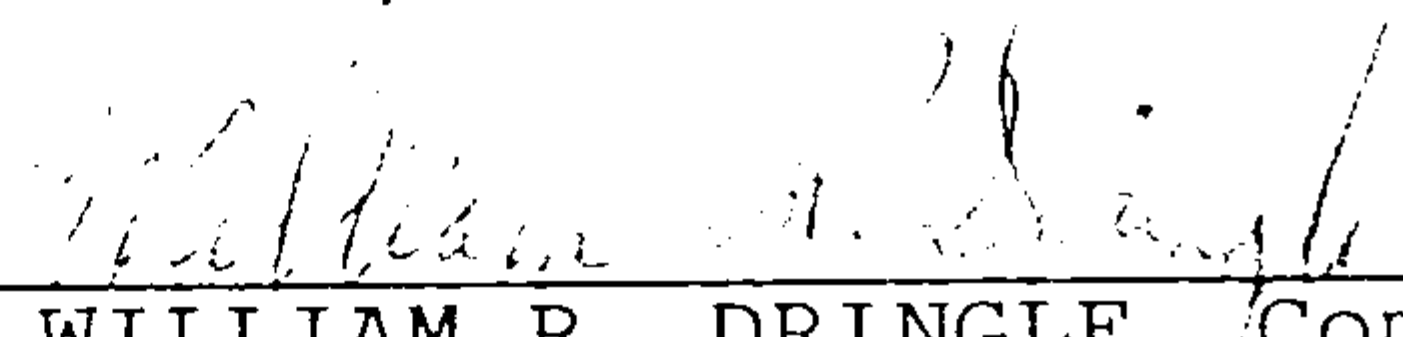
3. That permission shall be granted conditionally in the form of a license agreement in substantially the same form as attached to this Ordinance as Exhibit "A" and adopted as a portion hereof, including the provisions for construction specifications.


4. That any violation of this Ordinance shall be a criminal offense which shall be punished by a fine up to the maximum amount of \$500, and/or a jail term of not greater than six months.

5. That Ordinance No. 2-82 is hereby repealed.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS and signed after the first reading this 25 day of April, 1988.



JOHN D. ALLHANDS, Chairman

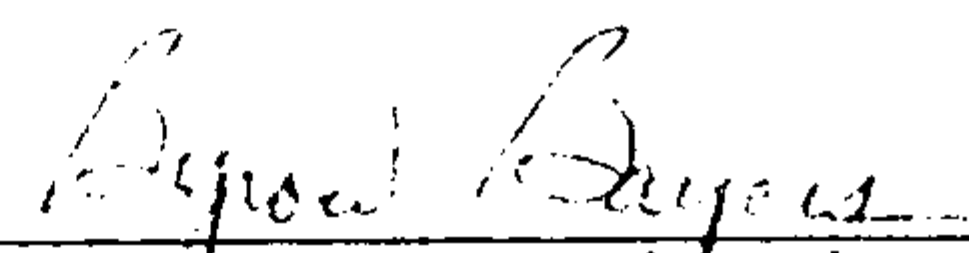

WILLIAM R. DRINGLE, Commissioner


BYRON BAYERS, Commissioner

PASSED BY THE BOARD OF COUNTY COMMISSIONERS and signed after the second reading this 7 day of May, 1988.


JOHN D. ALLHANDS, Chairman


WILLIAM R. DRINGLE, Commissioner


BYRON BAYERS, Commissioner

LIVESTOCK GUARD LICENSE AGREEMENT

THIS AGREEMENT, made and entered into by and between _____
_____ (PROPERTY OWNER) and Madison County, a
political subdivision of the State of Montana (COUNTY), as
follows:

1. PROPERTY OWNER is the owner of land described on the
attached Exhibit "A" and by reference made a part hereof and is
authorized to enter into agreements regarding such land with
COUNTY. PROPERTY OWNER desires to erect and maintain a livestock
guard, sometimes called an auto pass, upon or across a road in
Madison County.

2. COUNTY hereby gives and grants to PROPERTY OWNER a
license to construct and maintain a livestock guard across the
public road commonly known as (the) _____
which guard will be located in the _____ quarter of the _____
quarter of Section _____, Township _____, Range _____.

3. The license granted herein shall continue from the date
of this Agreement until notice of termination is provided by
COUNTY. COUNTY reserves the right to terminate this license at
any time upon thirty (30) days written notice mailed to PROPERTY
OWNER at the following address:

_____,
or immediately upon oral or written notice for failure of
PROPERTY OWNER to satisfy the terms and conditions of this
license and Agreement.

4. PROPERTY OWNER shall construct, install, and maintain at
its sole expense the excavation, livestock guard, foundation for
the guard, gates, fences, and all other improvements in accord
with the following specifications:

a) The livestock guard shall be constructed of steel and
shall have at least a twenty (20) ton capacity by manufacturer's
specifications.

b) The livestock guard shall be placed upon at least ten
(10) inch by twelve (12) inch treated timbers or upon a concrete
foundation at least twelve (12) inches thick.

c) An excavation shall be maintained under the livestock

guard at least eighteen (18) inches deep. It is recommended that the livestock guard be installed at a height approximately four (4) inches above the surrounding grade to maximize ease of maintenance. In any event, PROPERTY OWNER shall provide a smooth and gradual approach to the livestock guard on each of its sides along the full travelled width of the roadway.

d) The dimension of the livestock guard from one side of the road to the other shall be at least equal to the width of the travelled surface of the road.

e) The dimension of the livestock guard parallel to the travelled way of the road which is also described as the distance travelled by vehicles across the livestock guard shall be a minimum of six (6) feet.

f) There shall be a gate in the fence at one end of the livestock guard at least sixteen (16) feet in width adjacent to the livestock guard and suitable for vehicular traffic.

g) PROPERTY OWNER shall keep the livestock guard in good repair at all times and upon notice from COUNTY shall immediately repair or replace the livestock guard forthwith as required by COUNTY. Full discretion is granted to COUNTY by PROPERTY OWNER in determining the need for repair and/or replacement.

5. Failure of PROPERTY OWNER to abide by the terms of this Agreement shall be cause for immediate termination of this license agreement by COUNTY. In such event, PROPERTY OWNER shall forthwith remove the livestock guard together with its piers, timbers, abutments, etc., and shall fill the excavation with a smooth, even, compacted road surface at least as good in quality as the road on either side of the livestock guard. Failing compliance by PROPERTY OWNER, COUNTY may take such action as it deems necessary to assure the integrity and safety of the county road, including, but not limited to, all actions provided for herein. In such event, PROPERTY OWNER shall pay all expenses incurred by COUNTY and agrees that, in event of non-payment, COUNTY may add such expenses to PROPERTY OWNER'S tax notice and collect such amounts in the same manner as a tax, bearing interest and penalties.

7. This Agreement is binding upon the parties, their successors, grantees, personal representatives, heirs, and assigns. The covenants and agreements herein shall in all respects run and pass with the lands hereinabove described, and shall bind all owners thereof.

Dated: _____, 198__

MADISON COUNTY

_____ by _____

On this _____ day of _____, 198__, before me the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that _____ executed the same.

NOTARY PUBLIC, State of Montana
Residing at _____
My commission expires _____

STATE OF MONTANA)
) ss
County of Madison)

NOTARY PUBLIC, State of Montana
Residing at _____
My commission expires _____

STATE OF MONTANA)
)ss
County of Madison)

On this _____ day of _____, 198__, before me the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of Madison County, Montana, and acknowledged to me that said Madison County executed the same.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal the day and year first above written.

NOTARY PUBLIC, State of Montana
Residing at _____
My commission expires _____

FILE 101-A **015995**
RESOLUTION 8-88
ORDINANCE NO. 2-88

LIVESTOCK GUARDS ACROSS COUNTY ROADS

RECORDER'S OFFICE }
Madison County, Montana } ss.
Filed MAY 10 19 88
at 1:20 o'clock P.m.

By *Donald H. C. Blum* County Recorder
Deputy
Fee \$ NONE